

REMARKS

This amendment is submitted in response to the non-final Office Action mailed May 22, 2006. Following entry of this amendment, claims 1-42 and 44-51 will be pending in the application. In the Office Action, the Examiner:

- rejected pending claims 1, 2, 6, 7, 10-12, 18, 19, 21, 40-43, 45 and 46 under 35 U.S.C. § 103(a) as obvious in view of United States Patent Publication No. 2002/0156474 to Wack et al. (hereinafter “Wack”) and the level of ordinary skill in the art;
- rejected pending claim 5 under 35 U.S.C. § 103(a) as obvious in view of Wack in combination with U.S. Patent No. 6,572,622 to Schafer et al. hereinafter “Shafer”);
- allowed claims 25-39; and
- indicated that claims 8 and 44 would be allowable if rewritten in independent form.

Applicants have amended claims 1, 41, 44 and 45, and have added new claims 47-51, to further define the present invention, correct claim dependencies and/or more clearly distinguish over the cited prior art. All claims are fully supported by the originally-filed specification and/or drawings of the present application. No new matter has been added. Claim 43 has been canceled without prejudice. The claim amendments made herein do not represent acquiescence in the Examiner’s rejections, but rather are made only to expedite prosecution of the present application. Applicants expressly reserve the right to pursue the subject matter of any previously presented claims in one or more continuation applications. As discussed more fully below, Applicants respectfully submit that each of the currently pending claims define features of the present invention that are not disclosed, taught or suggested by the prior art of record and respectfully requests allowance of same.

Claim Rejections - 35 U.S.C. § 103(a)

Claims 1, 2, 6, 7, 10-12, 18, 19, 21, 40-43, 45 and 46 were rejected as obvious in view of Wack and the level of ordinary skill in the art. As discussed below, applicants respectfully submit that amended claim 1 distinguishes over the cited prior art of record.

As amended, claim 1 recites a bone plate comprising, *inter alia*, at least one second screw hole located in the shaft portion, the at least one second screw hole having an elongated perimeter “formed by first and second overlapping shapes of different size.”

Support for this amendment can be found in FIGS. 1 and 3 of the originally filed application. Applicants respectfully submit that Wack and Schafer, either taken alone or in combination, fail to disclose, teach or suggest a bone plate having the features recited in amended claim 1, e.g., at least one second screw hole having an elongated perimeter formed by first and second overlapping shapes of different size. Accordingly, for at least this reason, applicants respectfully request that the obviousness rejection of claim 1 be withdrawn and that claim 1, and each of its dependent claims 2-24, 40-42 and 47-51, be allowed.

Allowable Subject Matter

Applicants would like to thank the Examiner for the allowance of claims 25-39 and the indication that claims 8 and 44 would be allowable if rewritten in independent form. Applicants have rewritten claim 44 in independent form (excluding non-essential limitations), and respectfully request allowance of claim 44 and its dependent claims 45-46.

New Claims 47-51

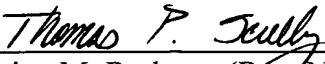
As discussed above, applicants also request allowance of new claims 47-51, which ultimately depend from amended claim 1.

In view of the above amendments and remarks, Applicants respectfully request that the Examiner reconsider pending claims 1-24, 40-42 and 44-51 with a view towards allowance. The Examiner is invited to call the undersigned attorney at (212) 326-3939 if a telephone call could help resolve any remaining issues.

A separate Amendment Fee Sheet for additional claim fees and a separate petition for a one-month extension of time is submitted herewith. Should any additional fees be required, please charge such fees to Jones Day deposit account no. 50-3013.

Respectfully submitted,

Date: August 31, 2006



Brian M. Rothery (Reg. No. 35,340)
By: Thomas P. Scully (Reg. No. 45,086)
JONES DAY
222 East 41st Street
New York, NY 10017
(212) 326-3939